

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GENERAL NUTRITION CORPORATION)	
and GNC FRANCHISING, LLC,)	
)	2:06-cv-731
Plaintiffs,)	
v.)	
)	
ZULFIQAR UDDIN, HUSAIN AHMAD)	
KHAN, IQBAL KHAN, MUBASSIR)	
BEGUM and ALIYA, INC.,)	
)	
Defendants.)	

ORDER OF COURT

Before the Court for consideration and disposition is Plaintiffs' (collectively "GNC's") MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION (*Document No. 2*). The motions were filed on June 1, 2006. A hearing on the motions was scheduled for September 14, 2006. On September 12, 2006, the hearing was cancelled. After conversations between chambers and Plaintiffs' counsel, it became apparent that not all of the Defendants had been served and that some of the Defendants were not located in the United States at the time. The docket reflects that a return of service has been executed as to only one of the five Defendants, Zulfiqar Uddin. No attorney has entered an appearance on behalf of Defendants. There has been no activity on the docket since September 12, 2006.

Motions for temporary restraining orders ("TROs") and preliminary injunctions are governed by Federal Rule of Civil Procedure 65. Both TROs and preliminary injunctions are extraordinary remedies that require the party seeking such relief to demonstrate imminent and irreparable harm. *Campbell Soup Co. v. ConAgra, Inc.*, 977 F.2d 86, 92-93 (3d Cir. 1992). Five months have now elapsed since GNC filed its motions. The docket reflects very little activity or

urgency on GNC's part in pursuing the motions. Any circumstances that may have been imminent in June 2006 likely have transpired during the five months that have elapsed since the motions were filed. Certainly, the ten (10) days provided in Rule 65(b) for a restraining order to remain in effect have long since expired. Accordingly, the motions for TRO and/or preliminary injunction will be DENIED. If circumstances which warrant the imposition of a TRO or injunction exist, the parties may file a new motion seeking appropriate relief.

AND NOW, this 31st day of October, 2006, in accordance with the foregoing Memorandum Opinion, it is hereby **ORDERED, ADJUDGED and DECREED** that Plaintiffs' (collectively "GNC") MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION (*Document No. 2*) are **DENIED** without prejudice.

BY THE COURT:

s/ Terrence F. McVerry
United States District Court Judge

cc: Gerald J. Stubenhofer, Esquire
Email: gstubenhofer@mcguirewoods.com

BY U.S. MAIL:

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